

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 0994

House Bill No. 1316

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-7-404(g), is amended by deleting the subsection in its entirety and by substituting instead the following:

(g) The provisions of Title 9, Chapter 8, Parts 3 and 4, shall be applicable to claims for refund and determination except as herein provided. Notwithstanding the provisions of Tennessee Code Annotated, Section 9-8-402(a), to the contrary, any employer who wishes to challenge all or any portion of a determination of liability for premiums herein required to be paid shall proceed as follows:

(1) The employer may pay the entire disputed amount under protest and thereupon file suit within thirty (30) days against the commissioner to recover same; or

(2) The employer may pay under protest at least one (1) full assessed premium (including any interest and penalty associated therewith) for the most recent calendar quarter in each taxable year in which the employer has been determined to be liable and thereupon file suit against the commissioner within thirty (30) days for refund and determination of liability.

(A) Payments under protest as prescribed in (g)(1) and (g)(2) must be made within ninety (90) days from the date of

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mailing of the department's initial written notice of determination or within fifteen (15) days of the date of mailing of the department's written notice of re-determination pursuant to subsection (i)(4)(B).

(B) A suit for refund and determination of liability filed by an employer under subsection (g)(2) shall operate to stay collection (except for the filing of tax liens as provided by subsection (b)(1) and (b)(2) of the disputed assessment of premiums, interest, and penalties included in the employer suit until dismissal or final determination thereof, if the employer also files with the complaint either a corporate surety bond or an irrevocable letter of credit issued by a qualified surety company or bank in a principal amount equal to one hundred percent (100%) of the assessment or portion thereof which is challenged minus the amounts paid under protest.

(C) A corporate surety company shall be "qualified" to issue a surety bond if it is authorized by the commissioner of commerce and insurance to engage in the surety insurance business in this state, and a bank shall be "qualified" to issue its irrevocable letter of credit if it has been designated by the state treasurer as an authorized depository bank for the deposit of state

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funds, unless it has been determined by the commissioner to be not qualified for this purpose, based on reasonable standards uniformly applied.

(D) In the event the employer's suit is withdrawn or dismissed, or final judgment thereon is rendered in favor of the commissioner as to all or any portion of the challenged assessment, the commissioner shall be entitled to collect the amount of the assessment, interest accrued thereon, and any penalty assessed against the employer, by enforcement of the bond, the letter of credit, or the lien.

(E) The stay of collection herein provided shall be applicable only to the disputed amounts included in the employer's original complaint, and no stay of collection shall apply to assessments for additional premiums unless or until the employer makes the requisite payment under protest and files an amended complaint together with the required corporate surety bond or irrevocable letter of credit in sufficient amount as provided in subsection (g)(2)(A) & (B).

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(3) Premiums, interest, penalties and costs shall continue to accrue until the dispute is finally resolved and any recovery in favor of an employer shall be paid as provided for other refunds herein.

SECTION 2 This act shall take effect July 1, 1995, the public welfare requiring it.